IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.A.No.738-DB of 1997
Date of decision:18.4.2007

Sandeep Kumar

…..Appellant

v.

The State of Punjab

…..Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE H.S.BHALLA

Present: Mr. J.S.Choudhary, Sr. Advocate
with Mr.SM Verma, Advocate.

Mr. HS Brar, DAG, Punjab.

JUDGMENT:

The appellant is aggrieved by his conviction under sections 498-A and 304-B IPC. Under section 498-A IPC, he has been sentenced to undergo RI for one and a half years and to pay fine of Rs.2000/-, in default, to undergo further RI for six months. Under Section 304-B IPC, he has been sentenced to undergo imprisonment for life.

Case of the prosecution is that Smt. Seema Rani, deceased was married to the appellant Sandeep Kumar about two years prior to her death, which took place on 4.12.1995, on account of 95% septic burns. Two-three months after the marriage, the

appellant started harassing the deceased for dowry. He gave her beatings and treated her with cruelty and also turned her out of the matrimonial home alongwith her child. She went to the house of her parents, who intervened and got the matter reconciled with the help of the brotherhood. The deceased joined the company of the appellant but the appellant continued harassment. Smt. Parkasho PW7, mother of the deceased received a message on 29.11.1995 at 10.45 PM that kerosene oil had been sprinkled upon Seema Rani and thereafter, she was set on fire. She immediately went to the house of the appellant and found that Seema Rani was lying burnt on the ground. She took her to the Civil Hospital, Rupnagar, from where she was referred to the PGI, Chandigarh . On the way, she told that kerosene oil had been sprinkled on her and thereafter, she was set on fire by her husband. She made a statement before PW14 ASI Kehar Singh on 30.11.1995 at 1.30 PM at PGI Chandigarh about the incident. Seema Rani succumbed to her injuries on 4.12.1995. PW14 ASI Kehar Singh conducted investigation, arrested the accused and challaned him.

The prosecution examined PW1 Dr. Dalbir Singh, who conducted post-mortem examination and gave his opinion that death was on account of shock due to septicemia as a result of 95% septic burns, which were ante-mortem in nature. PW2 Dr. Surjit Singh deposed that he examined the deceased on 29.11.1995 at 11

PM and referred her to PGI, Chandigarh. PW3 Sham Lal, father of the deceased deposed that the deceased was harassed for dowry and was turned out of the matrimonial home but she was rehabilitated with the help of the brotherhood. Harassment continued and ultimately, he came to know from his wife that she was put on fire. On the date of occurrence,he was not in the house and when he returned to his house on 30.11.1995, he went to the PGI, Chandigarh. PW4 Jatinder Nath, draftsman proved the site plan. PW5 ASI Joga Singh proved recording of the FIR. PW6 Constable Mehar Singh proved his affidavit Ex.PH. PW7 Parkasho, mother of the deceased supported the version given by her in the FIR in her statement Ex.PJ, on the basis of which FIR was registered. Nothing could be elicited from her in cross-examination. PW8 Dalip Singh, deposed that he was a neighbour of the deceased and heard the cries of “Bachao-Bachao (Save-Save) and when he went to the room, he did not find the appellant and found the deceased Seema Rani alone and mother of the deceased came there 10-15 minutes thereafter. The witness was declared hostile as he resiled from the statement made to the police that he had seen the accused in the room. PW9 Mohan Lal proved the compromise which was reached between the accused and the deceased and before the brotherhood. PW10 Dr. G.Varaprasadarao examined the deceased in emergency department on 30.11.1995

and gave opinion that the patient was not fit to give statement. PW12 HC Balwant Singh proved his affidavit Ex.PM. PW13 Gurpuran Singh, landlord of the house where the deceased was living with the appellant, deposed that on seeing the fire, he went to the room and helped him in extinguishing the fire and further deposed that she was taken to the hospital by her mother and other relatives. PW14 ASI Kehar Singh proved investigation conducted by him.

In his statement under section 313 Cr.PC, the accused denied the prosecution allegations and examined DW1 Bant Singh who stated that the appellant had cordial relations with the deceased and that a compromise was effected between them.

After considering the evidence on record, the trial court held the case of the prosecution to be proved beyond reasonable doubt. It was observed that evidence of PW3 Sham Lal and PW7 Parkasho clearly established that the death of Seema Rani was within seven years of marriage and she was harassed for dowry soon before her death. The medical evidence clearly established that the death was in circumstances other than normal. It was, however, held that in view of condition of the deceased, making of dying declaration could not be believed. Offence under Section 304-B did not require that death should be homicidal.

In view of categorical evidence of PW3 Sham Lal and PW7 Parkasho about harassment for demand of dowry soon before the death and the evidence of Dr. Dalbir Singh PW1 about the cause of death, case of the prosecution stands fully established. Defence of the accused is not acceptable. Learned counsel for the appellant also could not raise any meaningful argument to question the conviction but submitted that the substantive sentence awarded to the appellant may be reduced to the minimum and that there is no extraordinary reason to give life imprisonment, which was the maximum prescribed for the offence.

We have heard learned counsel for the State on the question of sentence, who has not been able to show any special feature which may warrant higher sentence.

We are of the view that ends of justice will be met if substantive sentence awarded to the appellant is reduced to RI for seven years under section 304-B IPC, while upholding his conviction and sentence under section 498-A IPC and conviction under section 304-B IPC.

Accordingly, while upholding conviction of the appellant both under sections 498-A and 304-B IPC, we modify the substantive sentence awarded to the appellant under section 304-B IPC to RI for seven years. Sentence under Section 498-A

IPC will run concurrently.

The appeal is disposed of.

(Adarsh Kumar Goel)
Judge

April 18, 2007 (H.S.Bhalla)
'gs' Judge